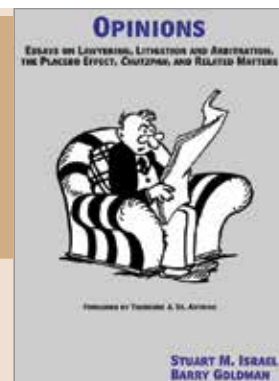


# Opinions—Essays on Lawyering, Litigation and Arbitration, the Placebo Effect, Chutzpah, and Related Matters

By Stuart M. Israel and Barry Goldman, published by Create Space Independent Publishing Platform (2016), softcover, 362 pages, \$19.95



Available only at [https://www.amazon.com/s/ref=nb\\_sb\\_noss?url=search-alias%3Daps&field-keywords=Books+Stuart+Israel](https://www.amazon.com/s/ref=nb_sb_noss?url=search-alias%3Daps&field-keywords=Books+Stuart+Israel)

Reviewed by John R. Runyan

**S**ome authors are capable of writing with great wisdom—contemporary examples include Thomas Friedman, Jeffrey Sachs, and Neil de Grasse Tyson. Others are capable of writing with great humor—Will Rogers, Erma Bombeck, and Samuel Langhorne Clemens (Mark Twain) come to mind. Rare is the writer who has the gift to write with both wisdom and humor. State Bar members Stuart Israel and Barry Goldman are among those select few.

*Opinions—Essays on Lawyering, Litigation and Arbitration, the Placebo Effect, Chutzpah, and Related Matters* is a collection of essays written by Israel and Goldman in which their ability to both entertain and inform is on full display. Many of these essays were previously published elsewhere—the authors are regular contributors to the SBM Labor and Employment Law Section's *Lawnotes*—but their new book collects and organizes the essays. From “Computers” to “The Wider World,” *Opinions* contains 124 separate essays organized into 19 chapters.

For example, in Chapter 12 on Language and Writing, Israel writes “In Defense of the Serial Comma,” in which he makes the case for including a comma after the penultimate item before *and* or *or* in a list of three or more items, as in the comma after *white* in *red, white, and blue*. He also makes a compelling case against misplaced commas, illustrating his argument as follows:

A caveat: use commas wherever appropriate, but put them in the right place. Misplaced commas can cause disaster. This is illustrated by the story behind the

title of the curiously popular *Eats, Shoots & Leaves* (2003) by Lynne Truss.

A panda walks into a café. He orders a sandwich, eats it, then draws a gun and fires two shots in the air.

“Why?” asks the confused waiter, as the panda makes toward the exit. The panda produces a badly punctuated wildlife manual and tosses it over his shoulder.

“I’m a panda,” he says, at the door. “Look it up.”

The waiter turns to the relevant entry and, sure enough, finds an explanation. Panda. Large black-and-white bear-like mammal, native to China. Eats, shoots and leaves.

In Chapter 6 on Poetry, Goldman, an arbitrator and mediator by trade, tries his hand at a verse entitled “The Arbitrator’s Lament:”

Flight 713 was scheduled to leave  
at a quarter after three  
But the sign said DELAYED and no one  
would say  
how long the delay might be  
Then the sign changed to FOUR and at  
four changed to FIVE  
and at five changed to QUARTER  
PAST SIX  
At six the man said they had fixed what  
was wrong  
but by then we weren’t fooled by their tricks

At seven o’clock they brought a new plane  
but the crew had all gone home to bed  
So we all had to wait while they got a  
new crew

“It will be a few minutes” they said  
Then we all got on board but we couldn’t  
take off  
cause something was wrong with a gauge  
Then the cops had to come and arrest some  
poor jerk  
cause he’d gone on a blind, screaming rage

We finally took off at ten minutes to nine  
and they’re “sorry for the delay”  
But they’re not going to feed us, there ain’t  
no free drinks  
and they’re not giving miles away  
It’s airline pretzels for dinner again  
with my legs crammed under my chin  
Oh, it’s a glamorous business  
this glamorous business we’re in

I’m tired and bored and wired and sore  
and angry and greasy and itchy  
And queasy and hungry and grumpy  
and creepy  
and sleepy and weary and twitchy  
The gods are cruel and men are fools  
and fate is unforgiving  
But, though I curse, it could be worse:  
I could have to work for a living.

Not to be outdone, Israel responds with some law-related haiku. Two of my favorites:

#### **In Federal Court**

Dark suit, a necktie.  
The air: too hot or too cold.  
Hard seats. Marble walls.

#### **A Cross-Examination Commandment**

Don’t ask the witness,  
if you don’t know the answer.  
Unless you don’t care.

Although much of *Opinions* has a literary bent, there is also useful advice about the practice of law, particularly with respect to advocacy, arbitration, and trial practice. In Chapter 2 on Advocacy and Self-Inflicted Wounds, Goldman warns of the dangers of “Overplaying Your Hand”:

Maybe I’m getting jaded. I used to get a kick out of hyperventilating advocates. There was one union representative I remember most fondly who used to stand during closing arguments and declaim as if he were speaking to the Roman Senate.

The problem with this kind of thing is that it wears thin. If you are “outraged” and “appalled” every time you speak, it doesn’t take long before people stop paying attention to you. Then when your opponent really does something outrageous or appalling you can’t get anybody to listen to you. There is a fairytale on the subject.

I’m not saying there’s anything wrong with a little raising of the voice and a few

rhetorical flourishes. It keeps everybody awake, and it impresses clients. But the really good stuff is done quietly.

In the same chapter, Israel rails against invective in legal argument, noting that not much has changed during the 13 years since his first essay on the subject in 1997. He observes that while some decision makers may be persuaded by it, many are not. As an example, he cites Judge Raymond Kethledge’s decision in *Bennett v State Farm Mutual Automobile Insurance Company*, 731 F3d 584, 585 (CA 6, 2013):

There are good reasons not to call an opponent’s argument “ridiculous”.... The reasons include civility; the near-certainty that overstatement will only push the reader away (especially when, as here, the hyperbole begins on page one of the brief); and that, even where the record supports an extreme modifier, “the better practice is usually to lay out the facts and let the court reach its own conclusions.”

I must confess that Israel and Goldman are both good friends of mine. But their writing is such a delight to read—so punctuated by wit, insight, and common sense—that I would have found their book difficult to put down even if I did not know them. As Shel Stark wrote in a review of *Opinions* to be published in *Lawnotes*, “This collection is funny, poignant, instructive and educational. Whether you read it from cover to cover or dip in as a topic becomes relevant to you, this collection should be on your shelf.” ■



*John R. Runyan is managing director of Sachs Waldman in Detroit. He also serves as chair of the State Bar Publications and Website Advisory Committee.*

# Hello, savings.

**\$20 off a weekly rental plus save up to 25% off base rates.**

Use **offer code (BCD) Z806400** to always save **up to 25% off base rates** plus, use coupon # **MUGZ079** to get an extra **\$20 off a weekly rental.**

Book today at **budget.com/sbm** or call **1-800-527-0700.**



**SBM** | PREFERRED PARTNER  
STATE BAR OF MICHIGAN

**Budget**®

**Terms and Conditions:** Coupon valid on a compact (group B) and above vehicle, excluding the Street Fleet (group X). Dollars off applies to the time and mileage charges only on a minimum five, maximum 28 consecutive-day weekly rental period. Fuel charges are extra. All taxes, fees (including but not limited to Air Conditioning Excise Recovery Fee, Concession Recovery Fee, Vehicle License Recovery Fee, Energy Recovery Fee, Tire Management Fee, and Frequent Traveler Fee) and surcharges (including but not limited to Customer Facility Charge and Environmental Fee Recovery Charge) are extra. Optional products such as LDW and refueling are extra. One coupon per rental. An advance reservation is required. May not be used in conjunction with any other coupon, promotion or offer. Coupons cannot be transferred, sold and we reserve the right to change terms anytime at our sole discretion. Coupon valid at participating Budget locations in the Contiguous U.S., Canada and Puerto Rico. Use BCD # Z806400. Offer subject to vehicle availability at time of reservation and may not be available on some rates at some times. Dollars off coupons presented/entered during reservation are calculated at time of reservation. Renter must meet Budget age, driver and credit requirements. Minimum age may vary by location. An additional daily surcharge may apply for renters under 25 years old. **Rental must begin by December 31, 2016.**

\*This offer is based on the currency of the location of check-out and subject to applicable exchange rates.  
©2016 Budget Rent A Car System, Inc.